

REMARKS

The final Office action of 10 January 2008 (Paper No. 20080106) has been carefully considered. Allowance of claims 1, 3-8 and 10-22 is noted with appreciation.

Objection to Claims 20 and 23

Claim 20 is objected to because of an informality, and the Examiner required deletion of the recitation "when searching the channel numbers" in lines 7-8 since it is recited twice.

Claim 23 is objected to because of an informality, and the Examiner required that the recitation "having" in line be changed to --encoded with--.

Claims 20 and 24-26 are amended in response to the Examiner's objection.

Claim Rejection Under 35 U.S.C. §102

Claim 23 is rejected under 35 U.S.C. §102 for alleged anticipation by Magana *et al.*, U.S. Patent No. 6,487,418.

Complying with the patent rule 37 CFR 1.116(b) and MPEP v8.5 Chapter 714.13, the applicant properly proposed to cancel Claim 23 and amend Claims 24-26 in order to adopt the Examiner's suggestion. Therefore, Claims 24-26 are amended and Claim 23 is cancelled in response the Examiner's rejection.

The Examiner on Page 3 of Paper No. 20080106 states that,

“Applicant’s argument filed October 12, 2007 have been fully considered but they are not persuasive. Regarding claim 23, applicant argued that Magana fails to disclose an access point device to “transmit a probe request frame to the peripheral access point devices” and “receive probe response frames from the peripheral access point devices”, or “receive beacon frames from the peripheral access point devices”; to “extract the channel number s from the received probe response frames”, or “extract the channel numbers from the beacon frames”; and to “store the extracted channel numbers”; then to get the optimal channel bu increasing and/or decreasing the unused channel numbers.”

The Applicant appreciates the Examiner’s approval of the Applicant’s arguments filed on October 12, 2007 filed as cited by the Examiner above.

Additionally, in response to the Examiner argument supporting the rejection to Claims 23-26 as cited above, Claim 23 is cancelled and Claims 24-26 are amended into independent claims including the Examiner’s proposed limitations.

Allowable Subject Matter

Claims 24-26 are objected to for dependency upon a rejected base claim, but the Examiner stated that these claims would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 24-26 are amended and Claim 23 is cancelled in response to the Examiner's rejection and objection.

Claims 1, 3, 5, 7, 14, 15 and 20 are further amended for a better grammar.

Entry of Amendment Under 37CFR §1.116(b)

The applicant is aware that under 37 CFR §1.116(b), it is stated that,

“...(b) After a final rejection or other final action (§ 1.113) in an application or in an ex parte reexamination filed under § 1.510, or an action closing prosecution (§ 1.949) in an inter partes reexamination filed under § 1.913, but before or on the same date of filing an appeal (§ 41.31 or § 41.61 of this title): (1) An amendment may be made canceling claims or complying with any requirement of form expressly set forth in a previous Office action; (2) An amendment presenting rejected claims in better form for consideration on appeal may be admitted; or (3) An amendment touching the merits of the application or patent under reexamination may be admitted upon a showing of good and sufficient reasons why the amendment is necessary and was not earlier presented....”

As stated in MPEP v8.5, Chapter 714.13,


“It should be kept in mind that applicant cannot, as a matter of right, amend any finally rejected claims, add new claims after a final rejection (see 37 CFR 1.116) or reinstate previously canceled claims. Except where an amendment merely cancels claims, adopts examiner suggestions, removes issues for appeal, or in some other way requires only a cursory review by the examiner, compliance with the requirement of a showing under 37 CFR 1.116(b)(3) is expected in all amendments after final rejection.”

Complying with the patent rule 37 CFR §1.116(b) and MPEP v8.5 Chapter 714.13, the applicant properly proposed to cancel Claim 23 and amend Claims 24-26 in order to adopt the Examiner's suggestion. Therefore, Claims 24-26 are amended and Claim 23 is cancelled in response the Examiner's rejection. Accordingly, entry of this Amendment is proper under 37 CFR §1.116(b).

In view of the above, it is submitted that the claims of this application are in condition for allowance, and early issuance thereof is solicited. Should any questions remain unresolved, the Examiner is requested to telephone Applicant's attorney.

A fee of \$420.00 is incurred for Large Entity by the addition of two (2) independent claims in excess of nine (9). Should the other fees be incurred, the Commissioner is authorized to charge Deposit Account No. 02-4943 of Applicant's undersigned attorney in the amount of such fees.

Respectfully submitted,



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